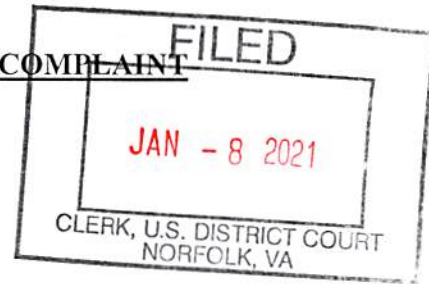


2:21-cv-19

AFFIDAVIT IN SUPPORT OF APPLICATION FOR CRIMINAL COMPLAINT



Introduction and Agent Background

I, Kevin Hand, being duly sworn, hereby depose and state:

1. I am currently employed as a Detective with the Police Department in the City of Virginia Beach, Virginia and am cross designated as a Customs Officer with the Department of Homeland Security (DHS), Homeland Security Investigations (HSI). I have been employed with the City of Virginia Beach since January 11th, 1999, and, since March of 2019, have been assigned to the Detective Bureau-Special Investigations, Internet Crimes Against Children Task Force. Since joining the Virginia Beach Police Department in 1999, I have investigated various violations of law ranging from traffic violations to violations of law involving the sexual abuse and exploitation of children. I have been the lead investigator for numerous criminal violations relating to child exploitation and child pornography including violations pertaining to the illegal production, distribution, receipt, and possession of child pornography, in violation of 18 U.S.C. §§ 2251, 2252 and 2252A. I have received training in the area of child pornography and child exploitation, and have had the opportunity to observe and review numerous examples of child pornography (as defined in 18 U.S.C. § 2256(8)) in all forms of media, including computer media. The statements contained in this Affidavit are based on my experience and background as a special agent and on information provided by other law enforcement agents.

2. I am an "investigative or law enforcement officer of the United States" within the meaning of 18 U.S.C. § 2510(7). That is, I am an officer of the United States, who is empowered by law to conduct investigations regarding violations of United States law, to execute warrants issued under the authority of the United States, and to make arrests of the offenses enumerated in 18 U.S.C. § 2251, *et. seq.*

3. This affidavit is made in support of an application for a criminal complaint charging JOSE VISENTE AYALA with Transportation of Child Pornography, in violation of 18 U.S.C. § 2252(a)(1) and Possession of Child Pornography, in violation of 18 U.S.C. § 2252(a)(4)(B).

4. This affidavit is based upon information that I have gained from my investigation, my training and experience, as well as information gained from conversations with other law enforcement officers. Since this affidavit is being submitted for the limited purpose of securing a search warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that JOSE VISENTE AYALA violated 18 U.S.C. §§ 2252(a)(1) and (a)(4).

Pertinent Federal Criminal Statutes

5. This investigation concerns alleged violations of 18 U.S.C. §§ 2252(a)(1) and (a)(4), relating to material involving the sexual exploitation of minors.

6. 18 U.S.C. § 2252(a)(1) prohibits a person from knowingly transporting or shipping, using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means including by computer or mails, any visual depiction, if (A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and (B) such visual depiction is of such conduct.

7. 18 U.S.C. § 2252(a)(4)(B) prohibits a person from knowingly possessing, or knowingly accessing with intent to view, one or more books, magazines, periodicals, films, or other materials which contain visual depictions of minors engaged in sexually explicit conduct that have been mailed, shipped or transported using any means or facility of interstate or foreign

commerce or in or affecting interstate or foreign commerce, or which was produced using materials which have been mailed, shipped or transported, by any means including by computer.

Probable Cause

8. On December 4, 2018, Tumblr, Inc. (“Tumblr”), an online blogging and social media platform, reported to the National Center for Missing and Exploited Children (“NCMEC”) that a user had uploaded forty-one files of suspected child pornography to their Tumblr account via the internet on December 3, 2018. Tumblr provided the username, “hotbloving,” for the account which had uploaded the files. Tumblr also identified an email account that was used to create the account, “jvat14@yahoo.com” and the internet protocol (IP) address from which the user uploaded the files, 70.160.183.97 (the “Target IP”).

9. I reviewed the files identified by Tumblr and found that the files included images of minors engaging in sexually explicit conduct. The age of the minors range from prepubescent to pubescent age. As an example, one of the files—which bears the name “1807[xxx]”¹—is a video of approximately one minute in length that depicts three nude prepubescent boys engaging in oral and anal intercourse.

10. On May 20, 2019, I submitted an administrative subpoena to Cox Communications (“Cox”) for information associated with the Target IP. Cox responded that the Target IP address, for the time period of December 1, 2018 through December 4, 2018, was associated with the following subscriber: M. A.—a relative of JOSE VISENTE AYALA—at a residence in Virginia Beach, Virginia (the “Virginia Beach residence”).

¹ Only a part of the file name is provided for purposes of this affidavit, as this document will be a public record.

11. On May 21, 2019, I obtained a search warrant for subscriber information and contents for the “jvat14@yahoo.com” email account, which I submitted to Oath Holdings, Inc. (“Oath”). Oath responded that the account was created using the following name and birthdate: Jose Ayala-Torres, DOB 1999. The response from Oath also included, among other contents within the account, an email which attached a “selfie” photograph. I have reviewed records maintained by the Virginia Department of Motor Vehicles for JOSE VISENTE AYALA which include a photograph that appears to be of the same individual in the “selfie” from the “jvat14@yahoo.com” account and which also lists JOSE VISENTE AYALA’s birthdate as the same one associated with the creation of the “jvat14@yahoo.com” email account.

12. On February 26, 2020, along with other members of law enforcement, I executed a search warrant at the Virginia Beach residence. JOSE VISENTE AYALA was found inside and a search of the residence resulted in the seizure of numerous electronic devices. Forensic analysis of the devices revealed that they contained numerous images and videos of minors engaging in sexually explicit conduct. One of these devices is a Hewlett-Packard laptop computer and another is a Samsung cellular telephone, both of which were manufactured outside of the Commonwealth of Virginia.

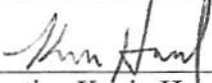
13. After being advised of and waiving his *Miranda* rights, JOSE VISENTE AYALA admitted that he was the owner of both the “hotbloving” Tumblr account and the “jvat14@yahoo.com” email account. JOSE VISENTE AYALA also admitted to viewing child pornography on the internet and recalled that he previously used Tumblr to send a video of three young boys engaged in sex.

Conclusion

14. Based on the information and evidence set forth above, I respectfully submit that there is probable cause to believe that COUNT ONE: on or about December 3, 2018, JOSE VISENTE AYALA transported child pornography in violation of 18 U.S.C. § 2252(a)(1), and COUNT TWO: on or about February 26, 2020, JOSE VISENTE AYALA possessed child pornography in violation of 18 U.S.C. § 2252(a)(4)(B).

15. Accordingly, I request that a complaint be issued charging JOSE VISENTE AYALA with such offenses.

FURTHER AFFIANT SAYETH NOT.



Detective Kevin Hand
TFO, HSI/Virginia Beach Police Department

Subscribed and sworn to in accordance with Fed. R. Crim. P. 4.1 by telephone on January 8, 2021, in the City of Norfolk, VA.



UNITED STATES MAGISTRATE JUDGE